

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1275 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL sd.

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

MULJI KHMJI HARIJAN

Versus

ANVARALI AMIRALI KHOJA

Appearance:

MR SURESH M SHAH for Petitioner

MR NV ANJARIA for Respondent No. 1

MR RAJNI H MEHTA for Respondent No. 3

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 16/04/98

ORAL JUDGEMENT

Admitted. By consent the appeal is taken up for
final hearing today.

The appellant had filed MAC Petition No.305 of 1993 before the MAC Tribunal, Kutch at Bhuj claiming Rs.25,000/- as compensation for personal injury suffered by him in a road traffic accident. The appellant, who was riding a bicycle, was knocked down by a rickshaw which was driven by respondent No.1 and owned by respondent No.2. Rickshaw was insured with the respondent No.3-Insurance Company. The appellant had suffered a fracture of proximal and right index finger and was hospitalised for seven days. He was aged about 58 and was employed as a barber and he claimed that his income was Rs.1500/- per month. Since the claim was for Rs.25,000/-, it was decided on affidavit-evidence. The Tribunal believed the appellant's evidence that the accident was caused because of the negligence of the rickshaw-driver and awarded Rs.15,000/- as compensation with running interest at 15% per annum from the date of the petition till its realisation.

The appellant has filed this appeal for the additional amount of Rs.10,000/-. After hearing the learned Advocates for the parties and going through the judgment of the Tribunal and having regard to the fact that nothing is awarded on account of future pecuniary loss, I am of the opinion that the appellant should be awarded Rs.6,000/- in addition to the amount already awarded by the Tribunal. He will also be entitled to recover interest at the rate of 12 per cent on the said amount of Rs.6,000/- from the date of application till the date of payment. The award of the Tribunal shall stand modified accordingly. The respondent No.3-Insurance Company shall deposit the additional amount awarded with interest at 12 per cent within six weeks from today. On the amount being deposited, the same shall be paid to the appellant by accounts payee cheque.

Appeal is disposed of accordingly.
